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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Edwin Allen Groover,

No. CV-22-00122-TUC-JCH

**Plaintiff,**

## ORDER

V.

United States Office of Personnel Management,

## Defendant.

Before the Court are pro se Plaintiff's "Motion to Reinstate Case" (Doc. 17) ("Motion I") and "Motion for a More Definite Explanation" (Doc. 18) ("Motion II"). On December 9, 2022, the Court denied Plaintiff's motion for default judgment and advised Plaintiff that his complaint would be dismissed without prejudice unless he established good cause for his failure to properly serve it by December 31, 2022. Doc. 15 at 3. Plaintiff did not respond. *See docket generally.* On February 27, 2023, the Clerk of the Court dismissed Plaintiff's case without prejudice for failure to comply with the Court's Order. Doc. 16. On March 6, 2023, Plaintiff filed Motion I and Motion II. Docs 17, 18.

## I. Legal Standard

Parties may seek relief from a court order under Federal Rule of Civil Procedure 60(b)(1) for excusable neglect. Excusable neglect "encompass[es] situations in which the failure to comply with a filing deadline is attributable to negligence," *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 394 (1993), and includes "omissions caused by carelessness," *id.* at 388. The determination of whether neglect is excusable "is at

1 bottom an equitable one, taking account of all relevant circumstances surrounding the  
 2 party's omission." *Id.* at 395. The Court's equitable analysis must examine "at least four  
 3 factors: (1) the danger of prejudice to the opposing party; (2) the length of the delay and  
 4 its potential impact on the proceedings; (3) the reason for the delay; and (4) whether the  
 5 movant acted in good faith." *Lemoge v. United States*, 587 F.3d 1188, 1192 (9th Cir.  
 6 2009) (citations omitted) (applying the *Pioneer* factors to Rule 60(b)(1)).

## 7 II. Legal Analysis

8 In Motion I, Plaintiff alleges that he did not receive the Court's Order due to a typo  
 9 in his mailing address. Doc. 17 at 1. Plaintiff alleges the Order was mailed to "6161 S.  
 10 Monson Rd.," and that he lives at "6161 S. Moson Rd." *Id.* Plaintiff further alleges that he  
 11 received the Court's Order on February 24, 2023, the day before travelling abroad. *Id.*  
 12 The Court construes Motion I as for relief from excusable neglect under Rule 60(b)(1).

13 Motion I does not demonstrate the need for relief under the *Pioneer* factors. First,  
 14 the danger of prejudice to the other party is low because Plaintiff has not yet served the  
 15 other party properly. But the Court also notes that denying Motion I does not  
 16 substantially prejudice Plaintiff because his case was dismissed without prejudice to  
 17 refile. Even so, the first factor weighs in favor of granting Motion I. Second, the length of  
 18 Plaintiff's delay was substantial: almost three months after the Court's Order and two  
 19 months after the Order's deadline. This factor weighs against granting Motion I. Third,  
 20 Plaintiff's reason for the delay is implausible. Plaintiff alleges the Court's Order was  
 21 mailed to the wrong address, but also that he somehow received it on February 24, 2023.  
 22 Doc. 17 at 1. Plaintiff's explanation is also incongruent with the fact that he has received  
 23 correspondence from the Court before without issue, and never mentioned the typo  
 24 before. *See docket generally.* Plaintiff's explanation is also implausible because the  
 25 timing he alleges is highly convenient: he alleges he received the Court's Order on  
 26 Friday, February 24, left for international travel on Saturday, and the Clerk of the Court  
 27 closed his case on Monday. This factor weighs heavily against granting Motion I. Finally,  
 28 and for related reasons, Plaintiff presents no evidence of good faith beyond the bare

1 assertion that he did not receive the Court's Order until the business day before the Court  
2 closed his case. The Court cannot find good faith on that basis. This factor also weighs  
3 against granting Motion I. For those reasons, the Court denies Motion I.

4 In Motion II, Plaintiff alleges (1) the Court's filing fee is an excise tax prohibited  
5 by the United States Constitution and Arizona Constitution; (2) the Court's filing fee must  
6 be paid in Federal Reserve notes not backed by gold or silver coin, in violation of the  
7 U.S. Constitution; and (3) the Court's rules and regulations are for government authorities  
8 only, not "humans/Creators in accordance with God's Laws." Doc. 18 at 1–2. Plaintiff  
9 "demands an explanation." Doc. 18 at 2. The Court construes Motion II as seeking to  
10 initiate a new lawsuit. As such, Motion II fails to comply with the Federal Rules of Civil  
11 Procedure and local rules governing complaints and is denied.

12 Accordingly,

13 **IT IS ORDERED DENYING** Plaintiff's "Motion to Reinstate Case" (Doc. 17).

14 **IT IS FURTHER ORDERED DENYING** Plaintiff's "Motion for a More  
15 Definite Explanation" (Doc. 18).

16 Dated this 10th day of March, 2023.

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Honorably John C. Hinderaker  
United States District Judge

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